

CCRB INVESTIGATIVE RECOMMENDATION

Investigator Assigned:	Team:	CCRB Case # :	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Courtesy
Craig Anderson	Pod # 7	201504300	<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.
Date/Time of Incident:	Location of Incident:	Pct. of Occurrence:	Date S.O.L. Expires:	
Wed, 05/27/2015 11:20 PM	Richmond Terrace and Lafayette Avenue	120	11/27/2016	
Date/Time C/V Reported:	C/V Reported At:	How C/V Reported:	Date/Time Received at CCRB:	
Thu, 05/28/2015 10:45 AM	CCRB	On-line website	Thu, 05/28/2015 10:45 AM	

Complainant/Victim	Type	Home Address	
1. [REDACTED]	[REDACTED]	[REDACTED]	
Subject Officer(s) Shield TaxID Command			
1. POM Richard Browne	00352	950113	120 PCT
2. An officer			
3. POM [REDACTED]			
Officer(s) Allegation		Recommendation	
A. [REDACTED]	[REDACTED]	A. Unsubstantiated	
B. [REDACTED]	[REDACTED]	B. Unsubstantiated	
C. [REDACTED]	[REDACTED]	C. Exonerated	
D. POM Richard Browne	[REDACTED]	D. Exonerated	
E. POM Richard Browne	[REDACTED]	E. Unsubstantiated	
F. POM Richard Browne	Abuse of Authority: PO Richard Browne searched Moquisia Brown.	F. Substantiated	
G. An officer	[REDACTED]	G. Unfounded	

Case Summary

On May 27, 2015 at approximately 11:20 p.m., PO Richard Browne and PO [REDACTED] of the 120th Precinct removed [REDACTED] from a city bus at Richmond Terrace and Lafayette Avenue in Staten Island after receiving a report of her disruptive behavior on the bus. (Ms. [REDACTED] stated that a female officer was with PO Browne and PO [REDACTED]. The investigation found no evidence of this.) After removing her from the bus, PO [REDACTED] allegedly opened Ms. [REDACTED]'s bag, removed an unopened vodka bottle, and threw it on the ground, smashing it (Allegations A and B). The officers handcuffed Ms. [REDACTED], and PO [REDACTED] allegedly pushed her to the ground (Allegation C). Ms. [REDACTED] repeatedly tried to stand up, and PO Browne pushed her to the ground each time, while saying, "Shut up. You want to go to jail, or you want to go to the psych ward?" (Allegation D and E). PO [REDACTED] eventually grabbed Ms. [REDACTED] by the bicep and "yanked" her off the ground (Allegation C, cont.). An ambulance arrived and the officers "threw" her inside (Allegation C and D, cont.). PO Browne and the reported female officer rode in the ambulance with Ms. [REDACTED], while PO [REDACTED] took the police car. During the ride, PO Browne searched both of Ms. [REDACTED]'s bags (Allegation F), with assistance from the reported female officer. The female officer saw Ms. [REDACTED]'s psychiatric medicine in the bag and allegedly said, "Oh, you're on the psych meds, huh? Did you take your pills today? Is that what made you go crazy?" (Allegation G). The officers left shortly after the ambulance arrived at Richmond University Medical Center (RUMC), where Ms. [REDACTED] was treated for alcohol intoxication (see Medical Records Folder). She was discharged at 2:01 a.m. She was not arrested or given a summons. Ms. [REDACTED] alleged that she received a bruised left bicep and scrapes on her fingers and knees from this incident. She was not treated for these injuries at RUMC, but later saw her own doctor for treatment.

Mediation, Civil and Criminal Histories

Ms. [REDACTED] rejected mediation. As of July 23, 2015, an inquiry with the Comptroller's office about any notice of claim filed by Ms. [REDACTED] is still pending. A search of Office of Court Administration records found no criminal convictions for Ms. [REDACTED] (see Board Review 01).

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by [REDACTED].
- PO Richard Browne has been a member of the NYPD for four years. There are two prior CCRB complaints against him, neither of which was substantiated. One complaint, 201304310, includes a threat of arrest allegation. That case was closed as "complainant uncooperative."
- [REDACTED]

Potential Issues

- The investigation contacted a gas station located near the scene of this incident, but they said their security cameras are pointed at their gas pumps and would not show the bus stop.
- Ms. [REDACTED] stated that another man got off the bus when she was removed and watched her interaction with the police. She did not know this man, and PO Browne and PO [REDACTED] had no recollection of anyone else getting off. PO Browne said one man

watched some of the interaction, but he did not think he came from the bus and he did not know the man's identity. Additionally, Ms. [REDACTED] and PO Browne both said the bus pulled away immediately after she got off, meaning that the individuals on the bus would not have observed the allegations. Therefore, the investigation was unable to identify any civilian witnesses.

Findings and Recommendations

Explanation of Subject Officer Identification

- Ms. [REDACTED] made several allegations against a female officer, but the investigation found no evidence that any female officer was involved in this incident. As noted in the “Allegations Not Pleaded” section, the allegations for which the female officer reportedly shared responsibility with PO Browne are only pleaded to PO Browne. Because the female officer was the only officer alleged to have used discourteous language, though, **Allegation G** is pleaded against “an officer.”

Allegations Not Pleaded

- **Threat of Arrest:** In addition to PO Browne saying, "Shut up. You want to go to jail or you want to go to the psych ward?", Ms. [REDACTED] alleged that the female officer made this statement and that PO [REDACTED] possibly said this, but she was not sure. Because Ms. [REDACTED] was unsure whether PO [REDACTED] made this statement, and because the investigation determined that there was no female officer, the threat of arrest allegation is only pleaded against PO Browne.
 - **Search:** Ms. [REDACTED] stated that, in the ambulance, both PO Browne and the female officer searched her bags. Because the investigation determined that the female officer did not exist, this search allegation is only pleaded against PO Browne.

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Allegation C – [REDACTED]

Allegation D – Force: PO Richard Browne used physical force against [REDACTED]

It is undisputed that the officers handcuffed Ms. [REDACTED] and took her to the ground, but Ms. [REDACTED] and the officers gave different accounts of how this occurred.

Ms. [REDACTED] alleged that PO [REDACTED] handcuffed her and then pushed her on the chest, causing her to fall on the sidewalk, landing on her left side. She stated that she received scrapes on her left hand and both knees because of this. She attempted to stand up several times, but PO Browne allegedly pushed her down each time. Eventually, PO [REDACTED] grabbed her left bicep and allegedly “yanked” her up, causing a bruise. When the ambulance arrived, the officers allegedly “threw” her in the back. Ms. [REDACTED] provided photos she took while in the hospital bed that show several small scrapes and bruises (see Board Review 02, 03, and 04). She was not treated for these injuries at RUMC, but was treated several days later at the Park Slope location of NYU Lutheran Family Health Centers, her regular doctor. (These records were requested, but have not yet been received.)

PO Browne and PO [REDACTED] said they handcuffed Ms. [REDACTED] because she was intoxicated and kept yelling at PO [REDACTED] and getting close to him. They said they both grabbed her arms and forced her to lie on the ground, after which they handcuffed her. PO Browne said the officers picked her up shortly after handcuffing her. PO [REDACTED] said he told her to sit down but she kept trying to stand up, and he held her shoulder to prevent her from doing so. Both officers denied that Ms. [REDACTED] complained of any injuries. Both said that she walked into the ambulance herself, rather than being thrown inside.

The investigation finds the officers' account of the force used to be more credible. Although Ms. [REDACTED] said she only had two glasses of wine before this encounter, several factors indicate that she was more intoxicated than she let on. First, Ms. [REDACTED] estimated that this incident occurred at about 9:30 p.m., whereas the event reports show that it occurred nearly two hours later (see Board Review 06). This suggests that Ms. [REDACTED] stayed out drinking longer than she realized. Second, a recording of one 911 call was provided by IAB, and the description of Ms. [REDACTED]'s behavior suggests severe intoxication. The caller said that Ms. [REDACTED] was screaming obscenities and seemed like she wanted to fight another passenger (see Board Review 07). (The caller did not observe the police interaction.) Lastly, the RUMC records indicate that Ms. [REDACTED] initially claimed to have consumed only two glasses of wine, but later admitted that she had several additional beers (see Medical Records Folder).

Officers must use the “minimum necessary force” against civilians when performing official duties. Patrol Guide, Section 203-11 (see Board Review 5).

The force used by PO Browne and PO [REDACTED] – forcing Ms. [REDACTED] to the ground incident to apprehension and grabbing her shoulder to keep her properly situated – was mild, and the available evidence suggests that it did not exceed the minimal force necessary to control an intoxicated person. It is recommended that Allegations C and D be exonerated.

Allegation E – Abuse of Authority: PO Richard Browne threatened to arrest [REDACTED]

Ms. [REDACTED] alleged that, as she was on the ground trying to stand up, PO Browne repeatedly said, "Shut up. You want to go to jail, or you want to go to the psych ward?"

PO Browne and PO [REDACTED] both denied that any officer said this or made any threat to arrest Ms. [REDACTED]. In his interview, PO [REDACTED] added that there was "no criminal act," and they would have had no reason to arrest Ms. [REDACTED].

According to PO [REDACTED]'s statement, any threat to arrest Ms. [REDACTED] would have been unjustified. It is possible, however, that her behavior on the bus constituted disorderly conduct, for which she could have been arrested. Regardless of whether Ms. [REDACTED] could have been arrested, though, the investigation is unable to determine whether PO Browne made any threat to arrest Ms. [REDACTED]. It is therefore recommended that **Allegation E be unsubstantiated.**

Allegation F – Abuse of Authority: PO Richard Browne searched [REDACTED]

Ms. [REDACTED] alleged that PO Browne searched her bags during the ambulance ride to RUMC, and PO Browne acknowledged conducting this search. He stated in his interview that his sole reason for doing so was to make sure she did not have any weapons in the bags.

Officers may not routinely search the bags of people they are taking to the hospital, even if that person is under arrest. To perform such a search, the officers must have a reason to believe that the suspect is armed. Additionally, the bag must be in the civilian's "immediate control" to create safety-based exigent circumstances. People v. Vega, 682 N.Y.S.2d 261 (1998 – 3rd Dept.) (see Board Review 08).

In this case, there was no reason for PO Browne to believe that Ms. [REDACTED] had weapons with her. There is no mention of any weapons in the event report (see Board Review 06), and, although Ms. [REDACTED] was somewhat belligerent, her behavior never escalated into actual violence. Furthermore, Ms. [REDACTED] was handcuffed, so there was no serious risk that she might grab weapons from her bags. It is also worth noting that – unlike the civilian in People v. Vega – Ms. [REDACTED] was not under arrest, so her bags could not have been searched incident to an arrest.

Considering that PO Browne lacked proper justification to search Ms. [REDACTED]'s bags, it is recommended that **Allegation F be substantiated.**

Allegation G – Discourtesy: An officer spoke discourteously to [REDACTED]

Ms. [REDACTED] alleged that a female officer searched her bags with PO Browne and, when she saw her medicine, said, "Oh, you're on the psych meds, huh? Did you take your pills today? Is that what made you go crazy?"

PO Browne and PO [REDACTED] both denied that any other officers were involved in the incident. PO Browne said another car briefly drove by to make sure they were okay, but those officers did not stay at the scene or interact with Ms. [REDACTED]. PO Browne said there was no other police officer in the ambulance with him and he searched Ms. [REDACTED]'s bags by himself. He confirmed that he saw prescription medicine in one bag. He said he asked her if she took her

medicine, as he normally would when taking someone to the hospital, but he did not do so in the manner described above.

Both officers stated that no other officers interacted with Ms. [REDACTED], and the investigation found no evidence to show otherwise. Although the event unit information showed that a second car, Sector H, was dispatched to the scene, Sector H never called to report their arrival, and Ms. [REDACTED] made no mention of a second police car being present. Sector H did have a female officer, PO [REDACTED] assigned. However, Ms. [REDACTED] described the female officer as a "full-figured" Hispanic woman, and PO Sartini is a white woman of average build (see Board Review 06, 09, and 10).

The pre-hospital care report from RUMC indicates that one of the EMTs was a woman, and it is conceivable that Ms. [REDACTED] confused this EMT for a police officer. Regardless, seeing that there was no female police officer in the ambulance with Ms. [REDACTED], it is recommended that **Allegation G** be unfounded.

Pod: 7

Investigator:	<u>Craig Andrews</u> Signature	<u>Craig Andrews</u> Print	<u>7/24/2015</u> Date
Pod Leader:	<u>ASI [Signature]</u> Title/Signature	<u>Daniel DiRocco</u> Print	<u>7/24/15</u> Date
Attorney:	<hr/>		<hr/>
	Title/Signature	Print	Date

5